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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------|
| 10/721,965   | 11/25/2003  | Donald B. Cameron    | 900093.92693                     | 5917             |
| 26710  | 7590        | 11/01/2005           |                                  |                  |
| QUARLES & BRADY LLP<br>411 E. WISCONSIN AVENUE<br>SUITE 2040<br>MILWAUKEE, WI 53202-4497 |             |                      | EXAMINER<br>FREAY, CHARLES GRANT |                  |
|  |             |                      | ART UNIT<br>3746                 | PAPER NUMBER     |

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TRK

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/721,965 | <b>Applicant(s)</b><br>CAMERON ET AL. |  |
|                              | <b>Examiner</b><br>Charles G. Freay  | <b>Art Unit</b><br>3746               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 July 2005.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-6 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This office action is in response to the amendment of July 1, 2005. In making the below rejections the examiner has considered and addressed each of the applicants arguments.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gergets et al in view of Behnke et al and Jezek as set forth in the first office action.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gergets et al in view of Behnke et al and Jezek as applied to claim 5 above, and further in view of Nguyen et al as set forth in the first office action.

### ***Response to Arguments***

Applicant's arguments filed July 1, 2005 have been fully considered but they are not persuasive. The applicant argues that the types of fluids which have been traditionally been pumped by centrifugal pumps (which are non-positive displacement pump) and positive displacement pumps are different and therefore one of ordinary skill would not be able to apply the teachings of a magnetic coupling arrangement from one type of magnetically driven pump to another type of magnetically driven pump.

The examiner disagrees. Respectfully, it is the examiner's position that the applicant is taking a very limited view of the teachings of the applied references. Gergets et al, Behnke et al and Nguyen et al all set forth that it is advantageous to divert fluid from the pumping cavity back to the interior of the can of the magnetic coupling in order to improve conditions within the can. They also note that the diameters and dimensions of the passages which go thru the pump flange must be sized correctly to create the proper flow conditions. One of ordinary skill in the art would be able to apply the teachings from each of the references to the other references with regards to properly sizing the passages or the orifices which are present in them in order to create the most efficient conditions for a given application and type of pump. It is the examiners position that the types of pumps are not so different or diverse that one of ordinary skill in the pump art having teachings of passing fluid thru the cans of each type, which have the flow paths geometry and flow conditions properly designed, would not be able to apply the teachings from one reference to the other.

Further, the examiner notes that the claims do not set forth the types of fluid which are to be pumped by the positive displacement pump. Making the applicants argument that the types of fluids typically handled by the various two of pumps create an impediment to applying the teachings from one type of pump to the other even less persuasive.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

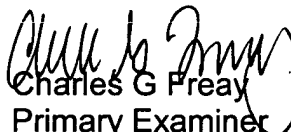
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G. Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Charles G. Freay  
Primary Examiner  
Art Unit 3746

CGF  
October 29, 2005